IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.3 OF 2007

Zawahirsha Mohamed Hanif ..Applicant

V/s.

Union of India & anr. ..Respondents

Mr.Anil Lalla i/b. Lalla & Lalla, advocate, for applicant
Ms.A.S.Pai, advocate, for respondent No.1

CORAM : V.C.DAGA, J.

DATE : 11TH SEPTEMBER, 2007

P.C.

1. Heard learned counsel appearing for the applicant and learned counsel for respondent No.1.

2. This Criminal Revision Application is directed against the order dated 9th October, 2006 passed in N.D.P.S.SPECIAL CASE NO.42 OF 2004 whereby application to recall P.W.2 came to be rejected for the reasons recorded in the impugned

order. Having heard parties at length and looking to consensus between the parties, P.W.2 is permitted to be put in the witness box for further cross examination by the present applicant or his advocate since the applicant did not get reasonable opportunity to cross examine P.W.2 for the reasons reflected in paragraph 6 of the impugned order. However, prosecution has urged that an opportunity to the applicant for further cross examination of P.W.2 should be subject to payment of heavy costs.

3. In the above view of the matter, the impugned order is set aside subject to deposit of costs of Rs.10,000/- by the applicant with the Sessions Court for being paid to the prosecution. The Sessions Court is directed to permit the applicant to cross examine P.W.2. The Assistant Public Prosecutor undertakes to produce P.W.2 on 14th September, 2007 or any other date suitable to the said witness for his cross examination. It is made clear that the learned Assistant Public

Prosecutor made a statement recorded here in above after taking instructions from S.V.Bhat, Investigating Officer attached to N.C.B., Mumbai.

4. In the result, Criminal Revision Application is accordingly allowed in terms of this order.

(V.C.DAGA, J.)